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09/931,336	08/16/2001	Randy G. Cowan	00-1914	2641

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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
3722	

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/931,336

Applicant(s)

COWAN, RANDY S.

Examiner

Mark T Henderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 26-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 27-33 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: Attachment I and II.

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9302 (Official) and (703)872-9303 (for After Finals). This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1, 8, 27-30 have been amended for further examination. Claim 34 has been canceled. After further review of the amended, the examiner has withdrawn the previous allowable subject matter and has given rejections as stated below.

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***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not understood what direction is considered “forward” and “rearward”.

Applicant must make the direction and position relative to the structure or an axis (X-axis or Y-axis). Are “forward” and “rearward” relative to the edges of the label structure, or relative to a front layer and a back layer? Furthermore, it is noted that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Applicant must clarify in further detail.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-7, 9 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Rankin et al (6,447,862).

Rankin et al discloses in Fig. 1-3 and in Attachment I and II, a label structure comprising: a front surface (F) and a back surface (B); a first axis (26) extending parallel to the longitudinal extent of a liner (22); the label structure having a first rearward side (A1) and a second forward side (B1) parallel to the first axis (26); the label structure comprising a base panel (12) for affixing to a surface, having a front face (12A) and a back face (12B), wherein the back face (12B) has applied adhesive (28); a first leaflet or folded panel (16d) positioned adjacent the front face (12A) of the base panel (12), having a first fold (21a) parallel with the first axis (26) and positioned toward the first side (A) and further defining a first fold axis (as seen in Fig. 2); wherein the first fold divides; a second leaflet or second folded panel (16e) positioned forward (at least at the fold) and rearwardly in the X-axis of the first leaflet such that at least a portion or leaf (16n) of the first leaflet is positioned between the second leaflet and the base panel and further defining a second

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fold axis (seen in Fig. 2), wherein the second leaflet has a second fold (21b), transversely positioned toward the second side relative to the position of the first fold; wherein the first leaflet does not extend forwardly of the second leaflet at its fold line in the X-axis; and a transparent laminating layer (18) overlying and forwardly directed in a Y-axis to the base panel, the first leaflet and the second leaflet, wherein the laminating layer has a back face (18c) adhered (by adhesive 24) to a portion of the base panel; wherein the laminating layer is adhered (not directly adhered and contacting) to a portion of the first and second leaflet (wherein the second leaflet is attached to the first leaflet); and further wherein the first and second folded panel are each divided into a pair of leaves, each of the leaves having an inner and an outer page face.

4. Claims 27, 28 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Rankin et al.

Rankin et al discloses in Fig. 1-3, a label structure comprising: a front surface (F) and a back surface (B); a first axis (26) extending parallel to the longitudinal extent of a liner (22); the label structure having a first forward side (B1) and a second rearward side (A1) parallel to the first axis (26); the label structure comprising a base panel (12) for affixing to a surface, having a front face (12A) and a back face (12B), wherein the back face (12B) has applied adhesive (28); a first leaflet or folded panel (16d) positioned adjacent the front face (12A) of the base panel (12), having a first fold (21a) parallel with the first axis (26) and positioned toward the first side (A) and further defining a first fold axis (as seen in Fig. 2); wherein the first fold divides; a second

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leaflet or second folded panel (16e) positioned forward (at least at the fold) and rearwardly in the X-axis of the first leaflet such that at least a portion or leaf (16n) of the first leaflet is positioned between the second leaflet and the base panel and further defining a second fold axis (seen in Fig. 2), wherein the second leaflet has a second fold (21b), transversely positioned toward the second side relative to the position of the first fold; wherein the first leaflet does not extend forwardly of the second leaflet at its fold line in the X-axis; and a transparent laminating layer (18) overlying and forwardly directed in a Y-axis to the base panel, the first leaflet and the second leaflet, wherein the laminating layer has a back face (18c) adhered ( by adhesive 24) to a portion of the base panel; and wherein the first fold (21A) is positioned at a distance greater for the first side of the label than the distance from the first fold and the first side of the label structure; and further wherein the second leaflet (21B) is stacked on the first leaflet (21A, when leaflets are in an open position).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rankin in view of Grosskopf et al (6,541,090).

Rankin et al discloses in Fig. 1-3 and in Attachment II, a label structure comprising: a front surface (F) and a back surface (B); a first axis (26) extending parallel to the longitudinal extent of a liner (22); the label structure having a first rearward side (A1) and a second forward side (B1) parallel to the first axis (26); the label structure comprising a base panel (12) for affixing to a surface, having a front face (12A) and a back face (12B), wherein the back face (12B) has applied adhesive (28); a first leaflet or folded panel (16d) positioned adjacent the front face (12A) of the base panel (12), having a first fold (21a) parallel with the first axis (26) and positioned toward the first side (A) and further defining a first fold axis (as seen in Fig. 2); wherein the first fold divides; a second leaflet or second folded panel (16e) positioned forward (at least at the fold) and rearwardly in the X-axis of the first leaflet such that at least a portion or leaf (16n) of the first leaflet is positioned between the second leaflet and the base panel and further defining a second fold axis (seen in Fig. 2), wherein the second leaflet has a second fold (21b), transversely positioned toward the second side relative to the position of the first fold; wherein the first leaflet does not extend forwardly of the second leaflet at its fold line in the X-axis; and a transparent laminating layer (18) overlying and forwardly directed in a Y-axis to the base panel, the first leaflet and the second leaflet, wherein the laminating layer has a back face (18c) adhered ( by



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adhesive 24) to a portion of the base panel; and wherein the base panel has a first (1) and second area (2), wherein the first and second leaflets are positioned in front of the second area.

However, Rankin does not disclose wherein the front face of a base panel has first and second areas in which indicia is marked on the first area and second area of the base panel; and wherein the first and second leaflets are positioned in front of the second area of the front face

Grosskopf et al discloses in Fig. 1, a base panel (120) having a first (127A) and a second area (127B) with indicia (“LOT” and “EXP.”).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Rankin’s label structure with indicia on the base panel as taught by Grosskopf et al for the purpose of providing more information relevant to the label.

***Allowable Subject Matter***

6. Claim 26 is allowed.

7. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. Claim 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

9. The following is a statement of reasons for the indication of allowable subject matter: No prior art of record discloses a label system comprising: a liner; a label structure; a first leaflet having inner page faces; a second leaflet having inner and outer page faces which are adapted for permitting viewing of indicia, and being positioned forward of the first leaflet such that the first leaflet is positioned between the second leaflet and the base panel; and a laminating layer having front and back faces, wherein the back face is adhered to a portion of the first leaflet and a portion of the second leaflet, and wherein the laminating layer is adhered to a portion of the outer face of the front second leaf of the second folded panel of the second leaflet; and including all of the other limitations of the independent claim.

***Response to Arguments***

10. Applicant's arguments filed on September 9, 2003 have been fully considered but they are not persuasive.

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In regards to Applicant's arguments that the amended claims now clarify that the "second leaflet is located closer to the front surface of the label structure than the first", the examiner submits that applicant's amendment does not clarify direction or position. "Front" and "back" is not necessarily the same as "forward" and "rearward". Since applicant has not defined or clarified these terms in the specification, the examiner has interpreted these terms in their broadest sense. Therefore, the examiner has now withdrawn the finality of the previous office action wherein the previous allowed claims are rejected to the lack of clarity of a specific direction or position as stated above.

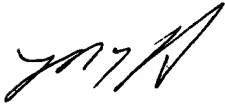
In regards to Claim 8, Rankin as modified by Grosskopf et al reference is now used to disclose a base panel having indicia on two distinct areas. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Rankin's label structure with indicia on the base panel as taught by Grosskopf et al for the purpose of providing more information relevant to the label.

In regards to the above stated 102 rejections, it is noted that the examiner has switched the sides (first and second) and positions (rearward and forward) for each 102 rejection to confirm the 112 rejection made.

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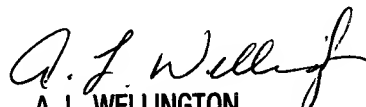
**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (703)305-0189. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (703) 308-2159. The fax number for TC 3700 is (703)-872-9302. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703)308-1148.



MTH

July 25, 2004



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